

same shall be filled by the remaining members of such Navigation and Canal Commission; provided that if two or more vacancies occur at the same time a special election may be called by a petition signed by fifty (50) resident property taxpaying voters after notice duly given by publishing or posting for at least twenty (20) days prior to such election which petition shall contain the judges and clerks for such election who shall jointly canvass the returns and declare the results of such election and issue certificates of election to the successful candidates which election shall otherwise be held according to the general election laws of the State of Texas; provided further that this Section shall not apply to navigation districts created pursuant to Section 52 of Article 3 of the Constitution of Texas, or to any such district converted or transferred into navigation districts under Section 59 of Article 16 of the Constitution of Texas, by virtue of Section 1 and 2 of this Act, but the Navigation and Canal Commissioners of such districts shall be appointed by the Navigation Board or the Commissioners' court of the county having jurisdiction as heretofore provided by law.

Sec. 6. It is hereby provided that the governing body of navigation districts heretofore created or hereafter created, whether by General or Special law, or converted or transformed by the provisions of this Act, may fund or refund their bonded debt legally outstanding without a vote of the people of such districts, in the manner now provided by law for counties, cities, and towns and may fund or refund their bonded debt legally outstanding owned by the State Board of Education in the manner now provided by law for Independent School Districts incorporated for free school purposes only.

Sec. 7. The provisions of this Act shall be cumulative of all other Acts heretofore enacted into Law with reference to the organization and operation of navigation districts. In case of any conflict the provision of this Act shall control.

Sec. 8. If any of this Act shall be held to be unconstitutional, such holding shall not effect any other provision of the Act not so held to be unconstitutional.

Sec. 9. The fact that there is now no law permitting the converting of navigation districts heretofore organized under Section 52 of Article 3 of the Constitution, into conservation and reclamation districts under Section 59 of Article 16, and that some confusion exists because of the fact that the powers intended to be exercised by navigation districts are not fully set forth in the law of their creation, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be, and the same is hereby suspended and that this Act take effect and be in force from and after the passage thereof, and it is so enacted.

FOURTEENTH DAY.

Senate Chamber,
Austin, Texas,

Wednesday, May 15, 1929.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Neal.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Committee Reports.

(See Appendix.)

House Bill No. 77.

The Chair laid before the Senate as special order the following bill: H. B. No. 77, A bill to be entitled

"An Act to provide for the eradication, in the State of Texas, of the fever-carrying tick (*Margaropus Annulatus*), and making it the duty of the inspectors of the Live Stock Sanitary Commission to supervise the dipping of cattle, horses, mules, jacks and jennets for the eradication of said fever-carrying tick (*Margaropus Annulatus*), and authorizing and requiring said Commission to establish necessary quarantines for the purpose of controlling and restricting the movement of said live stock, and for the purpose of preventing the spread of said infection and exposure to said fever-carrying tick (*Margaropus Annulatus*), and to eradicate the same, and requiring the commissioners courts to co-operate with said Commission in said work, and declaring an emergency."

The Committee report carrying a substitute bill was adopted.

The bill was read second time.

Senator Greer sent up the following amendment:

Amend S. B. No. 77, line 16, before the word "Angelina," by inserting the word "Anderson."

GREER.

The amendment was read and adopted.

The bill as amended passed to engrossment.

On motion of Senator Parr the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 77 was put on its third reading and final passage, by the following vote:

Yeas—31.

Beck.	Neal
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

The bill was read third time and finally passed by the following vote:

Yeas—27.

Beck.	Neal.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Westbrook.
Hyer.	Williamson.
Love.	Witt.
Martin.	Woodul.
McFarlane.	Woodward.
Miller.	

Nays—3.

Hornsby.
Moore.

Wirtz.

Absent.

Thomason.

House Bill No. 105.

The Chair laid before the Senate on its second reading the following bill:

H. B. No. 105, A bill to be entitled "An Act conveying to the United States of America an easement for the construction of the intracoastal waterway over certain State-owned lands in Chambers and Galveston counties; provided further, that nothing in this Act shall be construed to affect or impair any vested rights, or the right to use and maintain any bridge or bridges now in existence, and the right of the owner of any such bridge to use and maintain the same; providing for the reversion of said lands to the State of Texas under certain contingencies, and declaring an emergency."

The Committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Cousins the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 105 was put on its third reading and final passage, by the following vote:

Yeas—27.

Beck.	Gainer.
Berkeley.	Greer.
Cousins.	Holbrook.
Cunningham.	Hornsby.
DeBerry.	Hyer.

Love.	Small.
Martin.	Stevenson.
McFarlane.	Westbrook.
Miller.	Williamson.
Moore.	Wirtz.
Neal.	Witt.
Parrish.	Woodul.
Patton.	Woodward.
Russek.	

Absent.

Hardin.	Pollard.
Parr.	Thomason.

The bill was read third time and finally passed by the following vote:

Yeas—28.

Beck.	Moore.
Berkeley.	Neal.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Russek.
Gainer.	Small.
Greer.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent.

Hardin.	Pollard.
Parr.	

Bill Signed.

The Chair, Lieutenant Governor Barry Miller, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

H. C. R. No. 6.

S. C. R. No. 8.

Senator Thomason sent up the following resolution:

Whereas, On May 10th and 11th the Finance Committee of the Senate and the Appropriation Committee of the House of Representatives of the Texas Legislature made an inspection trip to the College of Arts and Industries at Kingsville, Texas, and to the territory primarily served thereby, to-wit: Corpus Christi, Kingsville, Edinburg, Harlingen, Port Isabel, and Brownsville, Texas; and

Whereas, The members of the two committees were greatly impressed

by the genuine hospitality and unstinted courtesy of all the hosts at the various towns visited, therefore

Be it Resolved by the Senate, the House concurring, that we extend our most sincere thanks to the good people of the points visited for their courtesy, attention and unbounded generosity; and

Be it Further Resolved that the reception given by the people in the towns mentioned was greatly appreciated and enjoyed.

We are glad to note and record the magnificent progress and development in Corpus Christi, Kingsville, Edinburg, Harlingen, McAllen, San Benito, Port Isabel and Brownsville;

Be it Further Resolved, That we extend to our fellow members Senator Parr, of Duval County, Representative Montgomery of Hidalgo County, Representative Hornaday of Cameron County, Representative Dunlap of Kleberg County and Representative Pope of Nueces County, our sincere thanks; and for the splendid reports of the trip we desire to express our thanks to the following members of the press:

Wm. M. Thornton, of the Dallas News and Dallas Journal.

Wm. P. Gaines, San Antonio Express.

Brownie Bradford, Austin American and Statesman.

Barry Bishop, Dallas Journal.

Dawson Duncan, Houston Chronicle.

We also desire to extend our thanks for the service given the two Committees by the Missouri Pacific Railroad Company, and particularly for their courtesy in returning the party from San Antonio in a special train in order to facilitate our work in the Legislature by allowing the Committees to return prior to the schedule time. We desire to thank all of the employees of the Railroad Company concerned in giving us this particular service, including M. L. Morris, Passenger & Ticket Agent Austin, and H. E. Barrett, Traveling Passenger Agent, San Antonio.

And we also desire to thank particularly Mr. Richard Kleberg and the Kingsville Ranch for the courtesy extended to our party on the occasion of the visit to the ranch properties.

We also desire to thank the Pullman Company and its employees for the courteous service rendered throughout the trip.

We also desire to express our sincere thanks and appreciation to the customs officers and the officers and citizens of Reynosa and Matamoras across the Rio Grande in our sister Republic, Mexico, for the courtesy extended our Committees, and we appreciate the cordial relations of the two Republics along the border.

The resolution was read and adopted.

Messages from the House.

The Chair recognized the Door-keeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 76, A bill to be entitled "An Act for the eradication of contagious, infectious and communicable diseases among cattle, horses, mules, asses, sheep, goats, hogs and other live stock, domestic animals and domestic fowls; also other diseases; providing for the establishment of quarantines, and penalties for violations of provisions of this Act; providing for the testing of cattle for tuberculosis and branding cattle that show a positive reaction to a tuberculin test, and declaring an emergency."

H. B. No. 89, A bill to be entitled "An Act to authorize the Commissioner of the General Land Office to accept and award all applications for the re-purchase of public school land forfeited and reappraised under Chapter 94, an Act approved October 19, 1925, for which application or the first payment therefor were filed in the Land Office after the expiration of the time allowed by law for the filing thereof, but for which applications and the first payment were so filed; such acceptance and award to be subject to existing rights of any third party who may have filed oil and gas application thereon, and declaring an emergency."

H. B. No. 98, A bill to be entitled "An Act authorizing the commissioners courts of the several counties in Texas to issue refunding bonds for the purpose of refunding

road bonds that have been issued by authority of statutes enacted pursuant to Section 52 of Article 3 of the Constitution of Texas, for and on behalf of counties, political subdivisions and defined districts and consolidated districts in such counties, and authorizing the commissioners courts to pass all appropriate orders to carry out such refunding; and to levy ad valorem taxes in payment thereof, and declaring an emergency."

H. B. No. 137 A bill to be entitled "An Act validating the sale of real estate by executors and administrators when citation was published as provided in Chapter 179, Acts of Regular Session, 1917, being now Article 28 of the Revised Civil Statutes of Texas, 1925, and where such citation was not posted as provided in Article 3568 of the Revised Civil Statutes of Texas, 1925, and declaring an emergency."

H. B. No. 179 A bill to be entitled "An Act authorizing persons, who, while acting as a duly elected and qualified tax collector of any county in Texas, erroneously paid to the county any excess fees of office, to sue the county for the fees so erroneously paid; authorizing payment of a claim without the necessity of suit; providing that the plea of limitation shall not be available to the county as a defense against such action; that the plea of limitation shall not be available to the plaintiff against cross-actions brought by the defending county, and declaring an emergency."

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 199, A bill to be entitled "An Act amending Article 5561 of the Revised Civil Statutes of the State of Texas, 1925, so as to provide that officers and jurors in lunacy cases shall be allowed compensation for similar services performed in misdemeanor cases in the justice courts, to be paid out of the estate of the defendant if he have an estate, otherwise by the county on ac-

counts approved by the county judge."

Respectfully submitted,
LOUISE SNOW PHINNEY,
 Chief Clerk, House of Representatives.
 Hall of the House of Representatives,
 Austin, Texas, May 15, 1929.
 Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 97, A bill to be entitled "An Act to amend Articles 6205 and 6221, of Title 109, of the Revised Civil Statutes of 1925, and to amend Chapter 153 of the General Laws of the Forty-first Legislature, and declaring an emergency."

H. B. No. 135, A bill to be entitled "An Act to prevent fraud in the purchase of gasoline and oil and to assure correct measurement, and declaring the retail sale of gasoline and oil to be affected with a public interest; providing for the licensing of operators of pumps or devices for the measurement of gasoline and oil, and providing for the issue of such license, and declaring an emergency."

Respectfully submitted,
LOUISE SNOW PHINNEY,
 Chief Clerk, House of Representatives.
 Hall of the House of Representatives,
 Austin, Texas, May 15, 1929.
 Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate Amendments to H. B. No. 77 and requests the Senate for the appointment of a Free Conference Committee to adjust the differences between the two Houses. The following are appointed as conferees on the part of the House:

Mecalfe, Stevenson, Dunlap, Jones, Ackerman.

Respectfully submitted,
LOUISE SNOW PHINNEY,
 Chief Clerk, House of Representatives.
 Hall of the House of Representatives,
 Austin, Texas, May 15, 1929.
 Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

By Mr. Warwick:

H. B. No. 80, A bill to be entitled

"An Act to ratify and adopt in principle the Canadian River Compact between the States of New Mexico, Texas and Oklahoma, executed on the 31st day of December, 1926, by the Commissioners of said States, which ratification and adoption is made subject to certain conditions, and declaring an emergency."

By Mr. Graves of Williamson.

H. B. No. 160, A bill to be entitled "An Act authorizing certain cities and counties to acquire and maintain and operate air ports; limiting the amounts of land which may be acquired or held for such purpose; providing for the necessary funds for such purpose; providing regulations for the operation, maintenance and support of such air ports; enacting all necessary provisions incidental to the general purpose of this act in providing for the acquisition, maintenance and operation of said air ports, and declaring an emergency."

Respectfully submitted,
LOUISE SNOW PHINNEY,
 Chief Clerk, House of Representatives.

S. C. R. No. 9.

Senator Pollard sent up the following resolution:

Whereas, The Appropriation Committee of the House of Representatives, and the Finance Committee of the Senate, have prepared all general appropriation bills and will have same favorably passed out of their respective committees and ready for introduction at the second called session of the Forty-first Legislature, and it will be necessary to have said bills printed prior to the opening day of the second called session of the Forty-first Legislature.

Now, therefore, be it resolved by the Senate of Texas, and the House of Representatives concurring, that the Chairman of the Appropriation Committee of the House and the Chairman of the Finance Committee of the Senate be, and they are, hereby vested with full power to have the bills, as prepared by their respective committees, printed and ready to be laid on the desks of the Senate and the House of Representatives on the opening day of the second Called Session of the Forty-first Legislature, and that they are fully authorized and empowered to have said bills printed at such

place and at such prices as they shall deem for the best interest of the State of Texas, and the cost of printing, and all other and further necessary expenses of same, shall be paid out of the contingent expense fund of the Regular Session, and/or, of the First Called Session of the Forty-first Legislature of Texas.

Be it further resolved that said bills shall be accepted under the rules of the House and Senate as though they were printed after the opening day of the second called session of the Forty-first Legislature, after being introduced on the opening day of the second called session of the Forty-first Legislature, and favorably reported by the respective committees.

POLLARD.

Read and adopted.

House Bills Referred.

H. B. No. 76 referred to Committee on Stock and Stock Raising.

H. B. No. 89 referred to Committee on Public Lands and Land Office.

H. B. No. 98 referred to Committee on State Highways and Motor Vehicles.

H. B. No. 137 referred to Committee on State Affairs.

H. B. No. 179 referred to Committee Civil Jurisprudence

H. B. No. 199 referred to Committee on Civil Jurisprudence.

H. B. No. 135 referred to Committee on State Affairs.

H. B. No. 97 referred to Committee on State Affairs

House Bill No. 28.

The Chair laid before the Senate on second reading the following bill:

H. B. No. 28, A bill to be entitled "An Act providing for the concentration of the Texas Prison system; increasing the duties, powers and functions of the Texas Prison Board; providing for the construction and building of buildings and walls and the location of a new penitentiary; providing for the removal of prisoners; providing for the purchase and sale of land and the sale and manner thereof of property now controlled and used by the prison system; providing for purchase and sale of products by said system and also by the Board of Control for other State institutions and purposes;

making an appropriation, and declaring an emergency."

Read second time.

Senator Holbrook moved to substitute the minority report for the majority report.

Recess.

On motion of Senator Pollard, the Senate, at 12:05 o'clock p. m., recessed until 2:00 o'clock p. m.

After Recess.

The Senate met at 2:00 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Barry Miller.

House Bill No. 28.

The question recurred upon the motion of Senator Holbrook to substitute the minority report for the majority report on H. B. No. 28.

Senator McFarlane moved to table the motion.

Senator McFarlane withdrew his motion to table and Senator Holbrook withdrew his motion.

Senator McFarlane sent up the following amendments:

Amend H. B. No. 28, page 3, line 14 by striking out the word "all" in line 14 and insert in lieu thereof the following: "fifteen-sixteenths (15-16) of."

McFARLANE.

Read and adopted.

Amend H. B. No. 28 by striking the following out of page 5, lines 21-23: "of cement, other materials and labor for use in the construction and maintenance of State highways and highway appurtenances," and insert in lieu thereof the following:

"of automobile license plates, seals, road signs, and all sheet metal products of all kinds."

McFARLANE.

Read and adopted.

Senator Small sent up the following amendment:

Amend H. B. No. 28 by adding after the enacting clause four new sections to be known as Section A, B, C, and D, which shall read as follows:

Sec. A. The Texas Prison Board is hereby empowered and directed to concentrate the Texas Prison System on some site best adapted to the

needs of a modern prison and commensurate with the present needs and the future development of the State, provided such site is found on land now owned by the said Prison System. The Texas Prison Board shall first carefully consider the feasibility and advisability of concentrating said prison system upon land now owned by the State and if, after making a careful survey of the lands now owned by the Texas Prison System, the Board shall decide that there is no suitable site thereon or that it is inexpedient or not in keeping with good business judgment to locate said system on any of such lands, then, and in that event, no further action shall be taken except that the Board, acting in conjunction with two members of the State Senate, to be appointed by the Lieutenant Governor, and three members of the House of Representatives, to be appointed by the Speaker, shall make an exhaustive survey of the State of Texas for the purpose of selecting a suitable site for the prison system, and after having made such survey shall submit a report to the Forty-second Legislature or to any Special Session prior to that time for approval or rejection.

Sec. B. The report of the Prison Board shall contain a description of the proposed site and a detailed and itemized estimate of the costs of the complete system or systems recommended and an analysis of the estimated costs of operation, and the estimated returns, and that said estimate shall be so prepared as to reflect and demonstrate the economic advantage of the system recommended, as compared with the prison system as now located, constituted and operated, or that may be located on land now owned by the State.

Sec. C. The sum of Twenty-five Thousand (\$25,000.00) Dollars or so much thereof as may be necessary is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to cover the cost of conducting the investigation contemplated by this Act, and the preparation and publication of the report of the Prison Board. The Prison Board shall be entitled to all necessary expenses incurred in carrying out the provisions of this Act and shall pay to all persons em-

ployed by said Prison Board proper salaries, fees and expenses. All salaries, fees and expenses under this Act shall be paid upon sworn accounts, countersigned by the Governor of Texas and the Chairman of the Prison Board, upon which sworn account, the Comptroller of Public Accounts shall draw his warrant, which shall be paid by the Treasurer of the State of Texas; provided the members of the Legislature so appointed shall be paid their necessary expenses as now provided for members of the Prison Board and in like manner.

Sec. D. If, after having made a careful survey of the lands now owned by the Texas Prison System, the Prison Board finds that the said system now owns lands reasonably adequate, suitable and adapted as a site for a modern penal system, commensurate with the needs and future development of the State, then said Board is directed to comply with the remaining provisions of this Act.

SMALL.

The amendment was read.

Senator Love sent up the following amendment to the amendment:

Amend the amendment by striking out in Section A the following words:

"acting in conjunction with two members of the Senate to be appointed by the President of the Senate and three members of the House of Representatives to be appointed by the Speaker."

LOVE.

The amendment to the amendment was read.

Senator Woodul offered the following substitute for the amendment to the amendment:

Substitute for the pending amendment to the amendment by striking out all words after the word "with" in line 10 of Sec. 1a, down to the word "shall" in line 13 of Sec. 1a, and inserting in lieu thereof the following:

"a committee composed of the Commander of the American Legion, Department of Texas, the President of the Texas Bar Association, the President of the Texas Bankers Association, the President of the Texas Cattle Raisers Association, the President of the East Texas Chamber of Commerce, the President of the West Texas Chamber of Commerce, the

President of the South Texas Chamber of Commerce, the President of the Texas Farm Bureau Federation, and the President of the Texas Federation of Labor; or, in the event any such persons are unable to serve, then a member of the organization of the person so unable to serve shall be selected by such person and serve in his stead."

WOODUL.

The substitute was read.

Senator McFarlane raised the point of order that a substitute for the amendment to the amendment was out of order.

The Chair overruled the point of order.

Senator Greer moved to table the substitute. The motion prevailed by the following vote:

Yeas—16.

Berkeley.	McFarlane.
Cousins.	Moore.
Cunningham.	Neal.
Greer.	Parr.
Holbrook.	Parrish.
Hornsby.	Small.
Hyer.	Witt.
Love.	Woodward.

Nays—12.

Beck.	Pollard.
DeBerry.	Russek.
Hardin.	Stevenson.
Martin.	Williamson.
Miller.	Wirtz.
Patton.	Woodul.

Absent.

Gainer.	Westbrook.
Thomason.	

Senator Wirtz moved to table the amendment to the amendment. The motion prevailed by the following vote:

Yeas—17.

Berkeley.	Parrish.
Cousins.	Patton.
DeBerry.	Russek.
Gainer.	Small.
Hornsby.	Stevenson.
Martin.	Williamson.
McFarlane.	Wirtz.
Miller.	Woodul.
Parr.	

Nays—10.

Cunningham.	Beck.
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Greer.
Holbrook.
Hyer.
Love.

Moore.
Neal.
Witt.
Woodward.

Absent.

Hardin.
Pollard.

Thomason.
Westbrook.

Senator Witt sent up the following amendment to the amendment:

Amend the amendment by making the number of Senators three and the number of Representatives five.

WITT.

Read and adopted.

Senator Parrish sent up the following amendment to the amendment:

Amend Section A, H. B. No. 28, by striking out the words "or prison board and the three and five appointed by the Lieutenant Governor and Speaker," and insert in lieu thereof the following:

The Governor shall appoint three members, the Lieutenant Governor three members and the Speaker three members, and to change the language of the amendment to fit the bill.

PARRISH.

Read and adopted.

Senator Holbrook sent up the following amendment to the amendment:

Amend the amendment to H. B. No. 28 by substituting a semicolon for the period after the word "system" in line 6 of the amendment and adding the word "provided."

HOLBROOK.

Read and adopted.

Senator Witt moved to reconsider the vote by which Senator Parrish's amendment to the amendment was adopted. The motion prevailed.

Senator Parrish received unanimous consent to change his amendment to read as follows:

Amend Sec. A, H. B. No. 28, by striking out the three and five appointed by Lieutenant Governor and Speaker and insert in lieu thereof the following:

"The Governor shall appoint three citizens of Texas, the Lieutenant Governor three members of the Senate and the speaker three members of the House," and change the language of the amendment to conform with the bill.

PARRISH.

The corrected amendment was read.

Senator McFarlane moved to table the amendment. The motion prevailed by the following vote:

Yeas—24.

Berkeley.	Moore.
Cousins.	Parr.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Hardin.	Small.
Hornsby.	Stevenson.
Hyer.	Thomason.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.

Nays—5.

Beck.	Parrish.
Greer.	Woodward.
Holbrook.	

Present—not Voting.

Neal.

Absent.

Westbrook.

Senator Love moved the previous question on the amendment by Senator Small. The motion was lost by the following vote:

Yeas—15.

Beck.	Pollard.
Hardin.	Stevenson.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodul.
Neal.	Woodward.
Patton.	

Nays—16.

Berkeley.	Miller.
Cousins.	Moore.
Cunningham.	Parr.
DeBerry.	Parrish.
Gainer.	Russek.
Greer.	Small.
Martin.	Thomason.
McFarlane.	Wirtz.

Senator Wirtz sent up the following amendment to the amendment:

Amend the pending amendment by striking out of Sec. A the words "the Texas Prison Board," and in lieu thereof insert the following:

"a Board of nine members to be

appointed by the Governor is hereby created (and whenever the words "Board" or "Prison Board" hereafter occur in this Act they shall be held to refer to the board hereby created) and said board."

WIRTZ.

The amendment was read.

Senator Love moved the previous question on the pending amendment and the amendment to the amendment. The motion prevailed.

The amendment to the amendment was adopted by the following vote:

Yeas—20.

Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Russek.
Gainer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Martin.	Williamson.
McFarlane.	Wirtz.
Miller.	Woodul.

Nays—11.

Beck.	Neal.
Greer.	Pollard.
Holbrook.	Westbrook.
Hyer.	Witt.
Love.	Woodward.
Moore.	

Senator Woodul moved to reconsider the vote by which the amendment to the amendment was adopted.

Senator Pollard raised the point of order that the previous question had been ordered and a motion to reconsider was out of order.

The Chair sustained the point of order.

Senator Love moved to reconsider the vote by which the previous question was ordered. The Chair held the motion out of order because the motion for the previous question had been partly complied with.

The amendment as amended was adopted.

Senator Witt sent up the following written motion:

I move that the Wirtz amendment be stricken from the Small amendment as amended.

WITT.

The amendment was read.

Motion to Adjourn.

Senator Russek moved to adjourn

until 10:00 o'clock Thursday morning.

The motion to adjourn was lost by the following vote:

Yeas—11.

Gainer.	Stevenson.
Hardin.	Thomason.
Martin.	Westbrook.
Miller.	Wirtz.
Parr.	Woodul.
Russek.	

Nays—20.

Beck.	McFarlane.
Berkeley.	Moore.
Cousins.	Neal.
Cunningham.	Parrish.
DeBerry.	Patton.
Greer.	Pollard.
Holbrook.	Small.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodward.

Free Conference Committee Report.

The Senate voted to grant the request of the House for a Free Conference Committee on H. B. No. 77.

The Chair appointed the following on the part of the Senate:

Senators Parr, Stevenson, Woodul, Berkeley, and Witt.

Entertainment Postponed.

The Chair laid before the Senate the following communication:

Executive Office,
Austin, Texas,

Wednesday, May 15, 1929.

Out of respect to the memory of the late Governor Sayers the lawn party which was planned for Thursday evening, May sixteenth, Executive Mansion, has been postponed.

Governor and Mrs. Moody will be at home the early part of next session to the members of the Legislature and their families.

House Bill No. 28.

The question recurred upon Senator Witt's amendment to H. B. No. 28.

Recess.

Senator Wirtz moved to recess until 8:00 o'clock. The motion prevailed by the following vote:

Yeas—18.

Beck.	Cousins.
Berkeley.	Cunningham.

DeBerry.
Gainer.
Greer.
Hardin.
Hornsby.
Martin.
McFarlane.

Miller.
Parr.
Parrish.
Patton.
Russek.
Small.
Wirtz.

Nays—11.

Holbrook.
Hyer.
Love.
Moore.
Neal.
Pollard.

Westbrook.
Williamson.
Witt.
Woodul.
Woodward.

Absent.

Stevenson.

Thomason.

At 5:40 o'clock p. m., the Senate recessed until 8:00 o'clock p. m.

After Recess.

The Senate met at 8:00 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Barry Miller.

House Bill No. 28.

The question recurred upon Senator Witt's motion to amend H. B. No. 28.

Point of No Quorum Raised.

Senator Wirtz raised the point of order that no quorum was present. The roll call showed no quorum present.

Senator Greer moved a call of the Senate. The call was seconded. The Chair ordered the doors closed.

Senator Greer moved that the Sergeant-at-Arms be instructed to bring in the absentees. The motion prevailed.

Point of Order.

Senator Wirtz raised the point of order that a bill could not be amended by a motion.

The Chair sustained the point of order.

Senator Love moved to reconsider the vote by which the Small amendment was adopted. The motion prevailed.

Senator Woodul moved to reconsider the vote by which the Wirtz amendment to the Small amendment was adopted. The motion prevailed. Senator Wirtz sent up the follow-

ing substitute for his original amendment:

Amend the pending amendment by striking out Section A and in lieu thereof add a new section to read as follows:

"Section A. A Commission is hereby created to determine whether or not the Texas prison system shall be concentrated on some of the lands now owned by the system, said Commission to consist of nine citizens of Texas to be appointed by the Governor. Said Commission shall carefully consider the feasibility and advisability of concentrating said prison system upon land now owned by the system and, if after making a careful survey of such lands, the Commission shall decide there is no suitable site thereon or that it is not expedient or in keeping with good business judgment to locate said system on any such land, then, and in that event, they shall so report to the Governor, and the Texas Prison Board, acting in conjunction with the three members of the State Senate to be appointed by the Lieutenant Governor and five members of the House of Representatives to be appointed by the Speaker, shall make an exhaustive survey of the State of Texas for the purpose of selecting a suitable site for the prison system and after having made such survey shall submit the report to the Forty-second Legislature or any Special Session prior to that time, for approval or rejection. In the event such Commission determines that it is feasible and advisable to concentrate said system upon land now owned by the system, it shall report such fact to the Governor and the Texas Prison Board shall then be empowered and is directed to concentrate said system on the site best adapted to the needs of a modern prison system and commensurate with the present needs and the future development of the State on some lands now owned by the system and contiguous lands.

The substitute amendment was read.

Senator Hornsby moved the previous question on the substitute amendment. The motion prevailed.

The substitute for the amendment was adopted by the following vote:

Yeas—17.

Berkeley.	McFarlane.
Cousins.	Miller.
Cunningham.	Parr.
DeBerry.	Russek.
Gainer.	Small.
Hornsby.	Woodul.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	

Nays—11.

Beck.	Parrish.
Greer.	Stevenson.
Hardin.	Westbrook.
Holbrook.	Witt.
Moore.	Woodward
Neal.	

Absent.

Thomason.

(Pairs Recorded.)

Senator Pollard (present), who would vote nay with Senator Patton (absent), who would vote yea.

The amendment as substituted was adopted.

Senator Small sent up the following corrective amendment:

Amend Section C of the Amendment No. 3 to H. B. No. 28 as follows:

Add after the word "Board" at the end of the first sentence of Section C thereof, "Prison Commission" and insert after the word "Board" in line 7 of said Section the following: "And Prison Commission," and insert in line 9 after the word "Board" "and Prison Commission."

SMALL.

Read and adopted.

Senator Wirtz sent up the following amendment to the amendment:

Amend the pending amendment by adding at the end of Section B the following:

"Nothing herein shall be construed as prohibiting the Board and the committees from the Senate and House from selecting a site on lands now owned by the system, and contiguous lands."

WIRTZ.

The amendment was read.

Senator Hornsby moved the previous question on the amendment to the amendment and the amendment itself. The motion prevailed.

The amendment to the amendment was adopted.

The amendment as amended was adopted.

Senator Witt sent up the following amendment to the bill:

Amend H. B. No. 28, page 3 lines 7, 8 and 9, by striking therefrom the words beginning with the word "save" in line 7 and those following to and including the word "Texas" in line 9.

WITT.

The amendment was read.

Senator McFarlane moved to table the amendment. The motion was lost by the following vote:

Yeas—13.

Perkeley.	Miller.
Cousins.	Parr.
Cunningham	Russek.
DeBerry.	Small.
Gainer.	Stevenson.
Martin.	Wirtz.
McFarlane.	

Nays—15.

Beck.	Parrish.
Greer.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodul.
Moore.	Woodward.
Neal.	

Absent.

Hardin.	Pollard.
Patton.	

Senator Hornsby moved the previous question on the amendment. The motion prevailed by the following vote:

Yeas—16.

Beck.	Neal.
Greer.	Parrish.
Hardin.	Small.
Holbrook.	Thomason.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodul.
Moore.	Woodward.

Nays—11.

Berkeley.	Miller.
Cousins.	Parr.
Cunningham.	Russek.
DeBerry.	Stevenson.
Gainer.	Wirtz.
Martin.	

Absent.

McFarlane.	Pollard.
Patton.	Westbrook.

The amendment was adopted by the following vote:

Yeas—15.

Beck.	Neal.
Greer.	Parrish.
Hardin.	Thomason.
Holbrook.	Westbrook.
Hornsby.	Witt.
Hyer.	Woodul.
Love.	Woodward.
Moore.	

Nays—14.

Berkeley.	Miller.
Cousins.	Parr.
Cunningham.	Russek.
DeBerry.	Small.
Gainer.	Stevenson.
Martin.	Williamson.
McFarlane.	Wirtz.

Absent.

Patton.	Pollard.
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Senator Small sent up the following amendment:

Amend the bill as amended by striking out Section D and insert the following:

If after having made a careful survey of the lands now owned by the Texas Prison System the Prison Commission finds that the said system now owns lands reasonably adequate, suitable and adapted as a site for a modern penal system, commensurate with the needs and future development of the State, then said Prison Commissioners shall report their findings to the Governor not later than December 1st, 1929, and in event said Prison Commission so reports, the system shall be concentrated on land now owned by said system, and the Prison Board as now created by law shall then comply with the remaining provisions of this act as speedily as consistent.

SMALL.

Read and adopted.

Senator Holbrook sent up the following substitute for the bill as amended:

Amend H. B. No. 28 by striking out all below the enacting clause and inserting in lieu thereof the following:

Section 1. That to carry out the intention of this Act the Board of Prison Commissioners of the State of Texas, referred to herein as the Prison Board, be and they are hereby authorized and directed to make a complete investigation of all matters pertaining to the concentration and relocation of the penitentiary system of this State, and the rehabilitation thereof in compliance with the terms of this Act. That said Prison Board shall meet within ten days after this Act becomes effective for the purpose of considering and developing plans to be submitted to the Governor and the Legislature as hereinafter provided.

Sec. 2. That said Prison Board be and it is hereby authorized and directed to submit to the Legislature of this State a plan or plans for the efficient operation, maintenance and management of the prison system of this State, together with recommendations for a site upon which the same shall be constructed. That in the investigation and preparation of such plan or plans said Prison Board may call upon and receive all services deemed advisable by it, in setting up and perfecting such plans and selecting of a suitable site; the expenses of which will be paid out of the funds herein appropriated.

Sec. 3. That it is the intention of this Act that the said Prison Board ascertain first the type of prison system best suited to the requirements of this State and the equipment and facilities therefor, and shall then recommend to the Legislature the most feasible and advantageous location or locations for such system, and that the report of said Prison Board shall further contain all other information, findings, and recommendations relative to the prison system, which said Prison Board shall deem of value to the Legislature.

Sec. 4. That the report of said Prison Board shall include plans and specifications for an adequate and efficient penitentiary system, which plans shall include specific provisions for the separation of prisoners, the black from the white and the male from the female, and for the separation and treatment looking to the reformation of all prisoners under the age of twenty-four years, and serving a first term

in the penitentiary. That said plan shall further provide for proper employment of all prisoners, which employment shall include the production and manufacture of any and all supplies and materials consumed by State departments and institutions, if said Prison Board shall find that any such supplies or materials may be manufactured or produced by said penitentiary system at an economic advantage to the State.

Sec. 5. That said report shall contain a detailed and itemized estimate of the costs of the complete system or systems recommended and an analysis of the estimated costs of operation, and the estimated returns, and said estimate shall be so prepared as to reflect and demonstrate the economic advantage, if any, of the system recommended, as compared with the prison system as now located, constituted and operated.

Sec. 6. That said Prison Board shall carefully consider the feasibility and advisability of concentrating the prison system upon lands now owned by the State of Texas, and used in the operation of the present penitentiary system; but if after such consideration it is deemed that it will be for the best interest of the State to select a site elsewhere in the State, the Prison Board will make its recommendations accordingly. That said Prison Board shall supply accurate data as to each tract of land so owned by the State which in its judgment might be designated as a site for the system, including the cost of any and all reclamation, drainage, terracing and other operation necessary in order to render said tracts of land available for the establishment thereon of the prison system contemplated herein. That included in such data, there shall be information as to railroad and transportation facilities and rates, and of conditions affecting sanitation and health of those living thereon. If the Prison Board recommends a site elsewhere, the same information is desired.

Sec. 7. That said report shall include a detailed and itemized inventory of the lands, buildings, equipment and other property (not including current food and other supplies) now owned by the State prison system, which shall show the value of all property and an esti-

mate of the probable price which said property will bring upon the market, and shall further contain an estimate as to the availability of any such property for use by the prison system recommended in said report, and shall further make recommendation as to the method and advisability of the use or disposal of all such property. That the estimates, appraisals and findings of experts upon which said recommendations as to the use or disposal of such property may be based, shall be signed by the appraisers or other experts engaged by the commission and attached to said report as exhibits.

Sec. 8. That said Prison Board shall proceed to carry out its duties with all practicable speed and shall compile its complete report for submission to the Legislature as soon as may be compatible with a thorough and well considered course of action and that said report shall be completed, printed and available not later than six months after the date upon which this Act shall become effective. That of this report as many copies shall be printed as the commission may deem advisable, provided that at least one complete copy shall be furnished to each member of the Legislature, and one to the Governor of this State, and that said report as furnished to the members of the Legislature and the Governor shall contain such statements, maps, plats, drawings and other data as may be deemed of value to the Legislature in judging the proposals and recommendations of said commission.

Sec. 9. That the sum of Seventy-five Thousand (\$75,000.00) Dollars or so much thereof as may be necessary be and it is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to cover the cost of conducting the investigation contemplated by this Act, and the preparation and publication of the report of the Prison Board. That said Prison Board shall be entitled to all necessary expenses incurred in carrying out the provisions of this Act and shall pay to all persons employed by said Prison Board proper salaries, fees and expenses. That all salaries, fees and expenses under this Act shall be paid upon sworn accounts, countersigned

by the Governor of Texas and the Chairman of the Prison Board, upon which sworn account, the Comptroller of Public Accounts shall draw his warrant, which shall be paid by the Treasurer of the State of Texas.

Sec. 10. The fact that the urgent and vital necessity of establishing in this State a modern, efficient and adequate prison system is apparent to all and that it is imperative upon the Legislature to create such a system, and before doing so to have before each legislator detailed and accurate data and information upon the question, and that such data and information can be secured only by the passage of an Act of this nature, and that it will be necessary for the Prison Board to begin its labors at the earliest possible date, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read upon three several days in each House, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amend H. B. No. 28 by striking out all the caption and insert in lieu thereof the following:

An Act providing for the Board of Prison Commissioners to make recommendations to the Legislature of this State regarding the possible concentration and relocation of the prison system of Texas, and defining the personnel, powers, and duties of said Prison Board, and providing for the publication of the findings and recommendations of said Prison Board, and appropriating the sum of Seventy-five Thousand Dollars for the expenses of said Prison Board and for the expenses and compensation of its employees; and declaring an emergency.

House Bills Referred.

H. B. No. 80, referred to Committee on Public Lands and Land Office.

H. B. No. 106, referred to Committee on State Affairs.

House Bill No. 207.

The Chair laid before the Senate on second reading the following bill:

H. B. No. 207, A bill to be entitled "An Act defining an emigrant agent,

and providing a license fee therefor, and bond necessary to be given, and providing penalties for a violation of this Act, or making false statements in connection therewith, and creating an emergency."

The committee report was adopted.

The bill was read second time.

Senator Parr sent up the following amendment:

Amend H. B. No. 207 by adding at the end of Section 9 the following words:

"It is further provided that this Act is cumulative of all the provisions of the Employment Agency Laws, both civil and criminal, now in force in the State of Texas, and that all of said laws be, where consistent, applicable to the provisions of this Act."

PARR.

Read and adopted.

The bill as amended passed to third reading.

On motion of Senator Parr the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 207 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Neal.
Berkeley.	Parr.
DeBerry.	Parrish.
Gainer.	Patton.
Greer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Nays—1.

Cousins.

Absent.

Cunningham. Pollard.

Read third time and finally passed by the following vote:

Yeas—29.

Beck.	Greer.
Berkeley.	Hardin.
Cousins.	Holbrook.
Cunningham.	Hornsby.
DeBerry.	Hyer.
Gainer.	Love.

Martin.	Stevenson.
McFarlane.	Thomason.
Miller.	Westbrook.
Moore.	Williamson.
Neal.	Wirtz.
Parr.	Witt.
Parrish.	Woodul.
Russek.	Woodward.
Small.	

Absent.

Patton. Pollard.

Adjournment.

Senator Hornsby moved to recess until 10:00 o'clock tomorrow morning.

Senator Miller moved to adjourn until 10:00 o'clock tomorrow morning. The motion prevailed and at 10:10 o'clock p. m., the Senate adjourned.

APPENDIX.

Committee on Engrossed Bills.

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 20 carefully examined and compared and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 59 carefully examined and compared and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 53 carefully examined and compared and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 134 carefully examined and compared and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 109 carefully examined and compared and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Reports.

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred,

H. B. No. 180, A bill to be entitled "An Act to provide for the destruction of certain predatory animals and rodent pests; providing for cooperation of this State with the United States Department of Agriculture in destroying certain predatory animals and rodent pests in the interest of live stock, crops, and ranges; authorizing an appropriation to be expended under the contingencies and in the manner provided in the Act; directing how such expenditures shall be made and the work herein provided for carried on; authorizing the Commissioner's Court of any county or the governing body of any incorporated city or town to appropriate money for the prosecution of predatory animals and rodent control work contemplated by this Act and in cooperation with State and Federal authorities to employ labor and purchase and provide supplies required for this work; enacting regulations relative to furs, skins and specimens taken and relating to bounties; enacting other provisions necessary and incidental to the general purpose of the Act; repealing Article 192 of the Revised Civil Statutes of 1925 and Chapter 195 of the General and Special Laws of the Regular Session of the Fortieth Legislature; declaring the Rule that the remainder of the Act shall not be affected by unconstitutionality or invalidity of

any part; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with the attached committee amendment, and that it be not printed.

WIRTZ, Chairman.

To be used as an amendment to H. B. No. 180, either as Committee Amendment, in the event the bill is acted on by the Senate Committee, or else in the event the bill is substituted on the floor of the Senate for S. B. No. 110, being an identical bill on the same subject.

Committee Amendment No. 1.

Amend House Bill No. 180 by replacing the period with a comma at the end of Section 9 on Page 3, line 40, and adding the following:

"Provided they are acting in performance of duties contemplated under the terms of this Act."

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 154, A bill to be entitled "An Act to amend Article 6692 of the Revised Civil Statutes of Texas of 1925; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and that it be not printed.

WIRTZ, Chairman.

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 168, A bill to be entitled "An Act fixing the fees and compensation of county attorneys in counties having a population of not less than 37,500 nor more than 100,000 inhabitants, and in which counties there are one or more judicial districts, and which have no district attorney; authorizing the employment of deputies, assistants and stenographers, to such county attorneys and fixing the compensation

for same; providing a method for the payment thereof; and providing that such county attorneys may collect fees for services rendered in corporation courts; specifying such fees; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and that it being a local bill, that it be not printed.

WIRTZ, Chairman.

Committee Room,
Austin, Texas, May 14, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Stock and Stock Raising, to whom was referred

S. B. No. 63, A bill to be entitled "An Act amending Article 6954, Chapter 6, Title 121 of the Revised Civil Statutes of Texas, 1925, as amended in Chapter 5 of the Acts of the Regular Session of the 41st Legislature of Texas, with reference to the mode of preventing horses and certain other animals from running at large in the counties named so as to include in said Article the counties of Archer, Brooks, Goliad, Gray, Hutchinson, Jeff Davis, Jim Hogg, Leon, Live Oak, Montgomery, Potter, Panola, San Jacinto, Shackelford, Terrell, Throckmorton, Walker, Uvalde, Webb, Zapata, and Zavala, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PARR, Chairman.

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 179 A bill to be entitled "An Act authorizing persons who, while acting as duly elected and qualified Tax Collectors of any county in Texas, erroneously paid to the county any excess fees of office to sue the county for the fees so erroneously paid; authorizing payment of a claim without the necessity of suit; providing that the plea of limitation shall not be available to the county as a defense against

such action; that the plea of limitation shall not be available to the plaintiff, against cross actions brought by the defending county; and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WOODWARD, Chairman.

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

We, your Committee on State Affairs, to whom was referred

H. B. No. 155, A bill to be entitled "An Act to amend Sections 1, 4, 8, 14, and 15 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature, 1927, and adding a new Section, Section 11a., thereto, so as to more accurately define the term "Motor Bus Company" and better define the jurisdiction of the Railroad Commission of Texas, in the regulation of motor bus terminals; to provide for the licensing of bus drivers and prescribe fees therefor; regulating the rates and the sale of tickets over bus lines; granting the power to bring suits to procure injunctions for the enforcement of the provisions of said H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature; providing for penalties and punishment for the violation of the provisions of this Act, and for the violation of the rules and regulations of the Railroad Commission; providing for additional funds in the way of fees and licenses for the enforcement of said Act; etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that Committee Substitute hereto attached do pass in lieu thereof, and that it be not printed.

WIRTZ, Chairman.

C. S. H. B. No. 155.

A BILL

To Be Entitled

An Act to amend Sections 1, 4, 8, 14 and 15 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the For-

tieth Legislature, 1927, and adding a new section. Section 11a, thereto, so as to more accurately define the term "Motor Bus Company" and better define the jurisdiction of the Railroad Commission of Texas, in the regulation of motor bus transportation; to provide for the regulation of motor bus terminals; to provide for the licensing of bus drivers and prescribe fees therefor; regulating the rates and the sale of tickets over bus lines; granting the power to bring suits to procure injunctions for the enforcement of the provisions of said H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature; providing for penalties and punishment for the violation of the provisions of said Act, and for the violation of the rules and regulations of the Railroad Commission; providing for additional funds in the way of fees and licenses for the enforcement of said Act; requiring the sale of stock in a Motor Bus Company to be approved by the Railroad Commission; providing for filing fees for applications for certificates of convenience and necessity, and fees for the lease, sale, or transfer of such certificate or stock; providing for the issuance by the Commission of identification metal plates for each vehicle used as a motor bus and the collection of fees therefor; repealing all laws in conflict therewith; providing that the invalidity of any part of this Act shall not affect the validity of any other part, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Section 1 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, be amended so that the same shall hereafter read as follows:

Section 1. (a) That the term "Corporation" when used in this Act means a corporation, company, association, or joint stock association.

(b) The term "Person" when used in this Act means an individual, firm or co-partnership

(c) The term "Motor Bus Company" when used in this Act means every corporation or persons as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning controlling, operating or managing any motor propelled passenger vehicle not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, whether operating over fixed routes or fixed schedules, or otherwise; provided further, that the term "Motor Bus Company" as used in this Act shall not include corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, in so far as they own, control, operate or manage motor propelled passenger vehicles operated wholly within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise;

(d) The term "Public Highway" when used in this Act means every street, road or highway in this State.

(e) The term "Highway Commission" when used in this Act means the Board of Highway Commissioners of the State of Texas.

(f) The term "Commission" when used in this Act means the Railroad Commission of the State of Texas.

Sec. 2. Section 4 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, is hereby amended so as to hereafter read as follows:

Sec. 4. (a) The Commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate the public service rendered by every motor bus company operating over the highways in this State, to fix or approve the maximum, or minimum, or maximum and minimum, fares, rates or charges of, and to prescribe all rules and regulations necessary for the government of, each motor bus company; to prescribe the routes, schedules, service, and safety of operations of each such motor bus company; to require the filing of such annual or other reports and of such other data by such motor bus

company as the Commission may deem necessary.

(b) The Commission is hereby vested with authority to supervise, control and regulate all terminals of motor bus companies, including the location of facilities and charges to be made motor bus companies for the use of such terminal, or terminal; provided, that the Commission shall have no authority to interfere in any way with valid contracts existing between motor bus companies and the owner or owners of motor bus terminals at the time of the passage of this Act.

(c) The Commission is hereby vested with power and authority to require that each driver of a motor bus operated by any motor bus company shall have a driver's license, which license shall be issued by the Commission under such rules and regulations as it may prescribe; provided that every driver aforesaid shall acquire a driver's license within 30 days after this Act takes effect, and shall annually thereafter, on or before the anniversary of the date of the original license, acquire a renewal thereof. Such license issued shall be for a term of one year. The Commission is hereby authorized to collect a fee of Three (\$3.00) Dollars for each license issued or renewed, provided that the Commission may revoke any such license for cause after notice and public hearing. The Commission is empowered further to issue temporary licenses in cases of emergency for such term as the Commission may deem expedient. It shall be unlawful for any motor bus company to operate a bus in this State unless such motor bus is operated by a driver holding a license issued by the Commission.

(d) The Commission is further authorized and empowered to supervise and regulate motor bus companies in all other matters affecting the relationship between such motor bus companies and the traveling public that may be necessary to the efficient operation of this law.

(e) It shall be unlawful for any motor bus company to sell any tickets for the transportation of passengers within this State over any motor bus line at any rates other than the rates authorized and approved by the Commission under the terms of this law; and it shall be

unlawful for any booking agency or brokerage concern, directly or indirectly, to sell tickets for the transportation of passengers over any motor bus line, and no motor bus company shall honor any ticket, or transport any passenger on any ticket so sold by any booking agency or brokerage concern.

(f) The Commission in prescribing and adopting routes and dealing with all other matters affecting the physical operation and control of motor bus companies over the public highways, under the power and authority of this Act, shall give due and proper consideration in forming its conclusions, and prescribing its orders and regulations to the general highway laws of this State, and to the orders, regulations, ordinances, or recommendations of the Highway Commission of Texas, or the commissioners' courts of any county or counties, or the local government of any municipality, through or between which the routes for such motor bus companies are prescribed and adopted.

Sec. 3. Section 8 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, is hereby amended by adding thereto, subdivisions e, f, and g, and shall hereafter read as follows:

Sec. 8. No application for certificate shall be considered by said Commission except that it shall be reduced to writing and set forth the following facts.

(a) It shall contain the name and address of the applicant, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(b) The complete route or routes over which the applicant desires to operate, together with a brief description of each vehicle which the applicant intends to use, including the seating capacity thereof.

(c) A proposed time schedule and a schedule of rates showing the passenger fares to be charged between the several points or localities to be served.

(d) It shall be accompanied by a plat or map showing the route or

routes over which the applicant desires to operate, on which plat or map shall be delineated the line or lines of any existing transportation company or companies over the highways serving such territory, with the names and addresses of the owner or owners thereof, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(e) Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes, and such fee shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(f) Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to the other fees and taxes, and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" is approved or not, such fee to be paid by the purchaser.

(g) No stock of any corporation owning and operating any "motor bus company" shall be sold or transferred without first securing the approval of the Commission as provided for certificates of convenience and necessity, in Section 5 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, and this paragraph shall be cumulative of that section, provided that the provisions of this sub-section shall apply only to those cases where the proposed sale will change the controlling interest in such motor bus company.

Sec. 4. Amend H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the For-

tieth Legislature of the State of Texas, 1927, by adding after Section 11 of the Act, and before Section 12 of the Act, a new section, to be numbered 11-A, as follows:

Section 11-A. It shall be unlawful for any motor bus company, as hereinbefore defined, to operate any motor bus within this State unless there shall be displayed and firmly fixed upon the front of such bus an identification metal plate to be furnished by the Commission. Each of such plates shall be so designed as to identify the vehicle on which same is attached as being a motor bus authorized to operate under the terms of this law, and the rules and regulations of the Commission, and said plate shall bear the number given to said vehicle by the Commission, and such other marks of identification as may be necessary. The identification plates provided for herein shall be in addition to the regular license plates required by law. It shall be the duty of the Commission to provide such plates and each motor bus operating in this State shall display one of said plates within sixty days after this Act takes effect, and such plates shall be issued annually thereafter and attached to each motor bus not later than September first of each year. The Commission is authorized to collect from the applicant a fee of one (\$1.00) dollar for each plate so issued and said fee shall be deposited in the State Treasury to the credit of the "Motor Transportation Fund."

Sec. 5. Section 14 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, is hereby amended so as to hereafter read as follows:

Section 14. (a) Any officer agent, servant, or employee of any corporation and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed five hundred (\$500.00) dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment; and the violations occurring on each

day shall each constitute a separate offense.

(b) Any officer, agent, servant, or employee of any motor bus company as heretofore defined, and any motor bus company, as heretofore defined, and/or the owner or operator, officer, servant, agent or employee, or any such owner or operator of any bus terminal who violates or fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the Commission, shall be subject to and shall pay a penalty not exceeding five hundred (\$500.00) dollars, for each and every day of such violation. Such penalty to be recovered in any court of competent jurisdiction in Travis County, Texas, or in the county in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney of the county in which the violation occurs, in the name of the State of Texas, and by direction of the Railroad Commission of Texas.

(c) Upon the violation of any provisions of this Chapter, or upon the violation of any rule, regulation, order or decree of the Commission, promulgated under the terms of this Act, any district court of Travis County, Texas, or any district court of any county where such violation occurs, shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act, or from violating the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, or upon the application of any person authorized by it to act, or upon the application of any "motor bus company" holding a certificate of convenience and necessity over the route affected, and against any "motor bus company" violating the provisions of this Act and not holding a certificate over such route and attempting to operate or operating over said route. Such relief may be granted in suits for penalties as provided in Subdivision (b) of this Section, but a suit for penalty shall not be a condi-

tion precedent to the injunctive relief provided by this Section.

(d) Any authorized inspector for the Commission shall have the power and authority to make arrests for the violation of this Act, coming under his observation, but such authority to make arrests shall be confined solely to the violations of this Act. Provided, further that it shall be the duty of all law enforcement officers of this State to enforce the provisions of this Act.

Sec. 6. Section 15 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, is hereby amended so as to hereafter read as follows:

Section 15. For the purpose of defraying the expense of administering this Act, every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of the issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special minimum fee of ten (\$10.00) dollars for each motor propelled vehicle, and a further fee, computed on the basis of one (\$1.00) dollar per passenger seat for the rated passenger capacity of the vehicle or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fees paid shall be proportionate to the remaining portion of the year ending August 31st following, but in no case less than one-fourth the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for additional motor propelled vehicles for less periods shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order.

All fees accruing hereunder and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer be deposited in the State Treasury at Austin and credited to the fund to be known and designated as the "Motor Transporta-

tion Fund," and out of which all warrants for expenditures necessary in administering and enforcing this Act shall be paid.

Sec. 7. All laws and part of laws in conflict herewith are hereby repealed.

Sec. 8. If any section, sub-section, sentence, clause or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

Sec. 9. The fact that the amendments and additions to H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, contained in this Act are essential and necessary to the proper regulation of motor bus transportation, the crowded condition of the calendar and the near approach of the end of the session create an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in full force from and after its passage and it is so enacted.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Penitentiaries, to whom was referred

H. B. No. 20, A bill to be entitled "An Act to provide for a system of pardons and paroles; to create a board to investigate and recommend to the Governor prisoners who should be pardoned or released on parole or on furlough; to provide for the supervision of prisoners released on parole; and making an appropriation to pay the salaries and defray the expenses of the board and its employees; enacting other things incidental to the subject of the act, and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and that it be not printed.

McFARLANE, Chairman.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Stock and Stock Raising, to whom was referred

H. B. No. 76, A bill to be entitled "An Act to provide for the eradication of contagious, infectious and communicable diseases among cattle, horses, mules, asses, sheep, goats, hogs, and other live stock, domestic animals and domestic fowls; also other diseases; providing for the establishment of quarantines by the Live Stock Sanitary Commission, providing penalties for violation of said quarantines, and penalties for other violations of provisions of this Act; providing for the testing of cattle that show a positive reaction to the tuberculin test; providing for the appointment by the Live Stock Sanitary Commission of a Chief Veterinarian and Ass'tant Veterinarians and other persons necessary for carrying out and enforcing the provisions of this Act, etc; and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass but be not printed.

PARR, Chairman.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Public Lands and Land Office, to whom was referred

H. B. No. 89, A bill to be entitled "An Act to authorize the Commissioner of the General Land Office to accept and award all applications for the re-purchase of public school land in Gaines, Hudspeth, Kinney and Yoakum Counties forfeited and reappraised under Chapter 94, an Act approved March 19, 1925, and as amended by Chapter 25, an Act approved October 27, 1926, for which applications or the first payment therefor were filed in the land office after the expiration of the time allowed by law for the filing thereof but for which applications and the first payment were so filed; such acceptance and award to be subject to existing rights of any third party who may have filed oil

and gas applications thereon; and declaring an emergency."

Have had the same under consideration and we are instructed to report it back to the Senate with the recommendation that it do pass with the following Committee amendment, and that it be not printed:

"Amend H. B. No. 89, page 1, Section 1, line 7, by striking out the word "Hudspeth" between the words "Gaines" and "Kinney" in said line 7 and by inserting after the word "Texas" in said line 7, the following: "and also Section Three (Sec. 3) in Block Sixty-Seven (67) and one half (½) in Hudspeth County, Texas."

SMALL, Chairman.

Committee Room.

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 143, A bill to be entitled "An Act amending Article 6869 of the Revised Civil Statutes of Texas, 1925, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

WOODWARD, Chairman.

By Small S. B. No. 143

A BILL

To Be Entitled

An Act amending Article 6869 of the Revised Civil Statutes of Texas, 1925, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That from and after passage of this Act, that Article 6869 of the Revised Civil Statutes of Texas, 1925, hereafter read as follows:

Article 6869. May appoint deputies, etc. Sheriffs shall have the power, by writing, to appoint one or more deputies for their respective counties, to continue in office during the pleasure of the sheriff, who shall have power and authority to perform all the acts and duties of their principals; and every person so appointed shall, before he enters upon the duties of his office, take and subscribe to the official oath, which shall be indorsed on his ap-

pointment, together with the certificate of the officer administering the same, and such appointment and oath shall be recorded in the office of the county clerk and deposited in said office. The number of deputies appointed by the sheriff of any one county shall be limited to not exceeding three in the justice precinct in which is located the county site of such county, and one in each justice precinct, and a list of these appointments shall be posted up in a conspicuous place in the clerk's office. An indictment for a felony of any deputy sheriff so appointed shall operate a revocation of his appointment as such deputy sheriff. Provided further, that if in the opinion of the commissioners court fees of the sheriff's office are not sufficient to justify the payment of salaries of such deputies the commissioners court shall have the power to pay the same out of the general fund of said county.

Sec. 2. The fact that under the present laws sheriffs of certain counties do not receive sufficient fees to justify their payment of salaries of deputies necessary for the preservation of law and order, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this Act take effect and be enforced from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 38, A bill to be entitled "An Act to require the District and County Clerks, the clerks of the Courts of Civil Appeals, the clerks of the Courts of Criminal Appeals, the Clerk of the Supreme Court and the Secretary of State to make annual reports as to the transactions of the courts of this State."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

WOODWARD, Chairman.

H. B. No. 38.

A BILL

To Be Entitled

An Act to require clerks of the district courts, the clerks of the Courts of Civil Appeals, the clerk of the Court of Criminal Appeals, and the clerk of the Supreme Court to file with the Secretary of State of the State of Texas, on or before the fifteenth day of September of each year a written report showing the condition of their respective dockets on September the first of the year in which such report is made; showing number and character of the cases on their respective dockets on the first of September of the previous year; the number and character of the cases filed during the said year and the disposition made of such cases, and the number of cases and character of same remaining on their respective dockets on the first of September of the year in which such report is made and the number of days during which court was held during the previous year; and declaring an emergency. Be it enacted by the Legislature of the State of Texas:

Section 1. Each clerk of a district court in this State, on or before the fifteenth day of September of each year, shall file with the Secretary of the State of Texas a written report certified by him to be correct showing:

I.

Civil Cases.

The civil cases on the dockets of the court of which he is clerk on September the first of the previous year and the character of said cases as follows:

- a. Aggregate number of cases of trespass to try title; to remove cloud from the title to land; to establish boundaries of land; to enforce specific performance of contract to convey land; and to enforce liens on land cases.
- b. Suits for damages for personal injury cases.
- c. Suits for divorce cases.
- d. Suits on contracts other than those relating to land cases. money by false pretense, and embezzlement cases.

The number of suits filed during

the year prior to September the first of the year in which report is made in each of said classes; the number of such suits in each of said classes dismissed during said time; the number of cases in each of such classes continued; the number of cases in each of such classes tried during said time; the number of cases in each of said classes remaining on the docket on September the first of the year in which said report is made. The total number of civil cases remaining on the docket. The clerk shall also certify the number of days the court was engaged in trying cases during said year.

II.

Criminal Cases.

The number and character of criminal cases as shown by the docket.

- a. Murder and assault to murder cases.
- b. Robbery and assault to rob cases.
- c. Rape and assault to rape cases.
- d. Perjury cases.
- e. Burglary cases.
- f. Violation in liquor laws cases.
- g. Theft, swindling, obtaining money by false pretense, and embezzlement cases.
- h. Forgery cases.
- i. Fraudulent sale of mortgaged property cases.
- j. Bribery cases.
- k. Adultery and fornication cases.
- l. Official misconduct cases.
- m. Not included in any of the foregoing classes cases.

The number of each of the above classes filed during the said year; the number of cases of each of said classes dismissed during the said time; the number of cases of each of said classes continued during said time; the number of cases of each of said classes in which there were acquittals during said time; the number of cases in each class in which there were convictions during said time. The total number of criminal cases remaining on the dockets.

III.

Courts of Civil Appeals.

Sec. 2. Each clerk of a Court of

Civil Appeals in this State shall, on or before September the fifteenth of each year, file with the Secretary of the State of Texas a written report showing cases on dockets of such courts from September the first of the previous year to September the first of the year in which said report is made.

- a. Relating to land _____ cases.
- b. Involving contracts other than those relating to land _____ cases.
- c. Suits for damages other than those relating to land _____ cases.
- d. Cases in such classes filed during the year _____ cases.
- e. Judgment of affirmance during the year giving the number of the judicial district from which the cases were appealed _____ cases.
- f. Judgments of reversals from each of said districts during the year giving the number of such judicial district _____ cases.
- g. Number of cases remaining on the docket _____ cases.

IV.

Court of Criminal Appeals.

Sec. 3. The clerk of the Court of Criminal Appeals of Texas shall file with the Secretary of the State of Texas, on or before September the fifteenth of each year, a written report showing on the docket:

- a. Murder and assault to murder _____ cases.
- b. Robbery and assault to rob _____ cases.
- c. Theft and other offenses relating to property including swindling, forgery, embezzlement, fraudulent disposition of mortgaged property _____ cases.
- d. Violation of liquor laws _____ cases.
- e. Offenses not included in any of said classes _____ cases.

Number of cases filed during the year; the character of such cases; number of cases affirmed from each judicial district; number of cases reversed from each judicial district; number of cases remaining on the docket.

V.

Supreme Court.

Sec. 4. The clerk of the Supreme Court of the State shall, on or before September the fifteenth of each year,

file with the Secretary of the State of Texas a written report showing the number of cases on the docket of said court:

- a. Relating to land _____ cases.
- b. On contracts other than those relating to land _____ cases.
- c. Damages for personal injuries _____ cases.
- d. Cases not included in either of the foregoing classes _____ cases.
- e. Writs of error granted _____ cases.
- f. Writs of error refused _____ cases.
- g. Reversed _____ cases.
- h. Remaining in the docket _____ cases.

VI.

Secretary of State.

Sec. 5. The Secretary of State of this State shall, on or before January the first of each year, make a summary of the report provided for in this Act showing:

- a. The number of district courts in this State _____
- b. Total number of cases tried in such courts from September the first of the previous year to September the first of the year for which said reports were made _____ cases.
- c. Number of days that each of said courts, giving number of judicial districts, were engaged in trying cases during said year _____ days.
- d. Filed in each of said courts during said time _____ cases.
- e. Disposed of by each of such courts in said time giving number of judicial districts _____ cases.
- f. Appealed from each of said courts giving number of judicial districts _____ cases.
- g. Affirmed on such appeal from each of such courts, giving number of judicial district _____ cases.
- h. Reversed from each of such courts giving number of judicial district _____ cases.

The said Secretary of State, on or before January the first of each year, shall furnish the Governor and each member of the Legislature of this State with a copy of the report made by him as provided in the next preceding Section of this Act, and also to such members of the press as shall request the same; provided, however, that the Secretary of State shall furnish to each of the clerks re-

quired to make reports herein, proper blanks upon which to make out said reports, at least thirty days before said reports are required to be made.

Sec. 6. The fact that there is no means under the laws of this State whereby it may be ascertained how the courts of this State are functioning, and that such information is useful to members of the Legislature and others, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three separate days be suspended and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, May 15, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 175, A bill to be entitled "An Act repealing Article 3884 Revised Civil Statutes of Texas of 1925, as amended in 1927 relating to the compensation of deputies and assistants of certain District and County officers and amending Article 3902 of the Revised Civil Statutes of Texas of 1925, relating to compensation of deputies and Assistants of certain district and county officers; and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

WOODWARD, Chairman.

By Kemble et al. H. B. No. 175.

A BILL

To Be Entitled

An Act repealing Article 3884, Revised Civil Statutes of Texas of 1925, as amended in 1927, relating to the compensation of Deputies and Assistants of certain District and County officers, and amending Article 3902 of the Revised Civil Statutes of Texas of 1925, relating to compensation of Deputies and Assistants of certain District and County officers; and declaring an emergency
Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 3884 of the Revised Civil Statutes of Texas 1925, as amended in 1927, Chapter 102, of the General Laws of the Fortieth Legislature, page 153, be and the same is hereby repealed.

Sec. 2. That Article 3902 of the Revised Civil Statutes of Texas of 1925, be and the same is hereby amended so as to hereafter read as follows:

"Article 3902. Whenever the County Judge, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, Justice of Peace, Constable, County Auditor, shall require the services of Deputies or Assistants in the performance of his duties, he may apply to the County Commissioners' Court of his county for authority to appoint such Deputies or Assistants, setting out by sworn application the number needed, the position sought to be filled, and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts and disbursements of the office; and said Court may make its order authorizing the appointment of such Deputies and fix the compensation to be paid them and determine the number to be appointed; provided, that in no case shall Commissioners' Courts or any member thereof attempt to influence the appointment of any person as Deputy or Assistant in any office. Upon the entry of such order the officers applying for such Deputies shall be authorized to appoint them as provided by law; provided, said compensation shall not exceed the maximum amount hereinafter set out. In counties having a population in excess of 100,000 inhabitants, the District Attorney in the county of his residence or the County Attorney where there is not a District Attorney, shall be allowed by order of the Commissioners' Court of the County where such official resides such amount as said Court may deem necessary to pay for the proper administration of the duties of such office, not to exceed Seventy-five Dollars per month; such amount to be allowed upon affidavit of said District or County Attorney showing a necessity for such expenses and for all the amounts so incurred. Said Commissioners' Court may also require any other evidence as it may

deem necessary to show the necessity of such expenditure, and its judgment in allowing same shall be final.

The maximum compensation which may be allowed for Deputies or Assistants to the officers above named for their services shall be as follows, to-wit:

First Assistant or Chief Deputy, not to exceed \$1800.00 per annum; other Assistants or Deputies, not to exceed \$1500.00 per annum each.

Provided, that in counties having a population of from 37,500 to 100,000 inhabitants, the minimum compensation which may be allowed such Deputies or Assistants for their services shall be as follows, to-wit:

First Assistant or Chief Deputy, not to exceed \$2100.00 per annum; heads of such departments, not to exceed \$1800.00 per annum each; other Deputies or Assistants, not to exceed \$1500.00 per annum each.

Provided, that in counties having a population of over 35,500 inhabitants, containing no city with a population of 25,000 inhabitants and having property of an assessed valuation exceeding \$30,000.00 as shown by the tax rolls for the last preceding year, the maximum compensation which may be allowed such Deputies or Assistants shall be as follows, to-wit:

First Assistant or Chief Deputy, not to exceed \$2,400.00 per annum; heads of such departments, not to exceed \$1,800.00 per annum each; other Deputies or Assistants, not to exceed \$1,500.00 per annum.

Provided, that in counties having a population of from 37,500 to 100,000 and containing a city of over 25,000, the maximum compensation that may be allowed such Deputies or Assistants for their services shall be as follows, to-wit:

First Assistant or Chief Deputy, not to exceed \$3,000.00 per annum; heads of each department not to exceed \$2,400.00 per annum each, other Deputies or Assistants not to exceed \$1,800.00 per annum each.

Provided, that in counties having a population in excess of 100,000 inhabitants, the maximum compensation that may be allowed such Deputies or Assistants for their services shall be as follows, to-wit:

First Assistant or Chief Deputy, not to exceed \$3,000.00 per annum;

provided, the Commissioners' Court may increase said amount not to exceed \$3,600.00 per annum, where a necessity thereof is shown and where the person to be appointed has been previously the head of a department for not less than one year or has been in the continuous service of the county for a period of not less than two years.

Assistant Chief Clerk, not to exceed \$2,700.00, provided, the Commissioners' Court may increase said amount to not exceed \$3,000.00 per annum where a necessity thereof is shown and where the person to be appointed has been previously Assistant Chief Clerk for not less than one year or has been in the continuous service of the County for a period of not less than two years.

Heads of Departments may be allowed by the Court, when in their judgment such are necessary, not to exceed \$2,700.00 per annum, when such Heads of Departments sought to be appointed shall have previously served the county for not less than two continuous years. Other Heads of Departments shall receive not to exceed \$2,400.00 per annum; provided, that no Head of a Department shall be created except where the person sought to be appointed is to be in actual charge thereof, with Deputies or Assistants under his supervision, or a Department approved by the Court and only in offices capable of a bona fide subdivision into departments.

Deputies or Assistants other than those above provided for may be allowed, the number to be determined by the Commissioners' Court, and their salaries based as far as possible on a graduated scale according to service, ability and qualifications. Fifty per cent of the number so appointed may be authorized at a rate not to exceed \$2,400.00 per annum, provided, such rate shall be allowed only to Deputies in service for two years or more and all others so appointed at a rate not to exceed \$2,100.00 per annum.

Provided, further, that in determining the number of inhabitants in each of the instances heretofore mentioned, the number of inhabitants as shown by the last United States census shall control.

The County Commissioners' Court in each order granting authority to

appoint Deputies or Assistants shall state the number of Deputies or Assistants authorized and the amount of compensation to be allowed each Deputy or Assistant and said compensation shall be paid out of the fees of the office to which such Deputies or Assistants may be appointed and assigned, and shall not be included in estimating the maximum fees of the officers named above. The salaries referred to shall not be paid by the county, but are to be paid out of the fees of the office in the following manner:

First, out of any current fees collected; second, if such fees are not sufficient, then out of any delinquent fees collected which are due the county after all legal deductions are made, and if there be any balance remaining after payment of the maximum fee, compensation and excess fees due such officer or officers and the compensation of such Deputy or Deputies, such balance shall be paid to the County Treasurer.

Provided, however, that nothing in this Act shall be construed to repeal House Bill No. 196, passed by the Regular Session of the Thirty-sixth Legislature, same being known as Chapter 47, of the Acts of the Regular Session of the Thirty-sixth Legislature, page 83, and any Act amendatory thereof, relating to fixing salaries of District Attorneys, their Deputies, Assistants and Stenographers in Counties having a population of more than 100,000.

Provided, that in Counties of 200,000 inhabitants and over and containing a city with a population of over 160,000 inhabitants, according to the last United States census, and in which Counties there are more than one District Court, including Criminal District Courts, the Clerk of the District Court shall appoint a Special Deputy for each such Court when directed so to do by the Judge of any such Court, except in instances where there is now one provided for by law; provided, further, that any such Special Deputy shall be paid out of the General Fund of the county a salary not in excess of the minimum salary per annum provided for Deputies now by law, payable monthly, and such compensation shall not be paid out of the fees of compensation of the District Clerk, and shall not be taken into consideration in

arriving at the maximum compensation and excess fees allowed the Clerk of the District Courts.

All laws and parts of laws in conflict herewith are expressly hereby repealed.

The fact that Deputy Clerks in counties having a population over 200,000 inhabitants containing a city of 150,000 population as shown by the Tax rolls for the last preceding year are underpaid, creates an emergency and imperative public necessity demanding that the Constitutional Rule requiring bills to be read on three several days be suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

(Majority Report.)

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred

S. B. No. 4, A bill to be entitled "An Act regulating and imposing duties and restrictions on certain public utilities, providing for the regulation of rates to be charged by public utilities for service rendered, that the rates charged shall be just and reasonable and that the service rendered shall be adequate, efficient and reasonable, requiring reports to be made by utilities, creating a public utilities commission, providing for the appointment of commissioners, fixing their salaries and terms of office, providing for the employment of examiners, engineers, statisticians, accountants, inspectors, clerks and employees, conferring duties and powers upon the commission, prescribing rules of procedure before it, providing for an appeal to the commission from the order of a municipal corporation empowered to regulate the rates of utilities or from the failure to act on the part of the governing body of such municipality in regard to rates charged for service rendered, providing for judicial review and enforcement of the acts, orders and decisions of the commission and a penalty for the violation of the provisions of this Act, repealing acts inconsistent herewith and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

WIRTZ, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, May 15, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, a minority of your Committee on State Affairs, to whom was referred

S. B. No. 4, A bill to be entitled "An Act regulating and imposing duties and restrictions on certain public utilities, providing for the regulation of rates to be charged by public utilities for service rendered, that the rates charged shall be just and reasonable and that the service rendered shall be adequate, efficient and reasonable, requiring reports to be made by utilities, creating a public utilities commission, providing for the appointment of commissioners, fixing their salaries and terms of office, providing for the employment of examiners, engineers, statisticians, accountants, inspectors, clerks and employees, conferring duties and powers upon the commission, prescribing rules of procedure before it, providing for an appeal to the commission from the order of a municipal corporation empowered to regulate the rates of utilities or from the failure to act on the part of the governing body of such municipality in regard to rates charged for service rendered, providing for judicial review and enforcement of the acts, orders and decisions of the commission and a penalty for the violation of the provisions of this Act, repealing acts inconsistent herewith and declaring an emergency."

Have had the same under consideration, and beg to differ with the majority of the committee and report the bill back to the Senate with the recommendation that it do pass and be printed in the Journal.

WOODWARD,
SMALL,
HOLBROOK,
HORNSBY.

By Senator Woodward, S. B. No. 4
Holbrook, Hornsby, Small.

A BILL
To Be Entitled
An Act regulating and imposing du-

ties and restrictions on certain public utilities, providing for the regulation of rates to be charged by public utilities for service rendered, that the rates charged shall be just and reasonable and that the service rendered shall be adequate, efficient and reasonable, requiring reports to be made by utilities, creating a Public Utilities Commission, providing for the appointment of Commissioners, fixing their salaries and terms of office, providing for the employment of examiners, engineers, statisticians, accountants, inspectors, clerks and employees, conferring duties and powers upon the Commission, prescribing rules of procedure before it, providing for an appeal to the Commission from the order of a municipal corporation empowered to regulate the rates of utilities or from the failure to act on the part of the governing body of such municipality in regard to rates charged for service rendered, providing for judicial review and enforcement of the Acts, orders and decisions of the commission and a penalty for the violation of the provisions of this Act, repealing acts inconsistent herewith and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Article I.

Section 1. Definitions.

(a) The term "corporation," when used in this Act means a private corporation, an association, a joint stock association, or a business trust.

(b) The term "person," when used in this Act means a natural person, a partnership or two or more persons having a joint or common interest, and a corporation as hereinbefore defined.

(c) The term "public utility or 'utility'" as used in this Act means and includes persons, companies and private corporations, their lessees, trustees, and receivers, owning, managing, using, operating leasing or controlling within this State any wires, pole lines, conduit lines, wells, pipe lines, plant, property, equipment, facility, franchise, license or permit for either one or more of the following kinds of business:

1. Producing, manufacturing, or obtaining, transporting, conveying,

distributing, or delivering gas—and by gas as used in this Act is meant natural gas, artificial gas, mixed gas, either or all—for public use or service for compensation.

(1) For sale to the public or municipalities or persons or companies, in those cases to which reference is hereinafter made engaged in distributing or selling natural gas to the public, for sale or delivery of gas to any person or firm or corporation operating under franchise or a contract with any municipality or other legal subdivision of this State, or for sale or delivery of gas to the public for domestic or other use.

(2) Owning or leasing or operating or managing or controlling a pipe line for the transportation or carriage of gas whether for public hire or not, if any part of the right of way for said line has been acquired or may hereafter be acquired by the exercise of the right of eminent domain, or if said line or any part thereof is laid upon, over, or under any public road or highway of this State, or street or alley of any municipality or the right of way of any railroad or other public utility; including also any gas utility authorized by law to exercise the right of eminent domain.

(3) Producing or purchasing gas and transporting or causing the same to be transported by pipe line to, into or near the limits of any municipality in which said gas is received and distributed or sold to the public by the public utility, another public utility or by said municipality.

2. Producing, generating, transmitting, conveying, distributing or delivering electricity for the production of light, heat, or power for public use or service for compensation:

(1) For sale to the public, or to municipalities, or persons or corporations in cases to which reference is hereinafter made, engaged in distributing or selling electricity to the public, for sale or delivery of electricity to any person or firm or corporation operating under franchise or a contract with any municipality or other legal subdivision of this State or for sale or delivery of electricity to the public for domestic or other use.

(2) Owning, leasing or operating, managing, controlling or using a

transmission line, wires, conduits, or other appurtenances for the transportation, carriage or transmission of electricity whether for public hire or not, if any part of the right of way for said transmission lines has been acquired, or may hereafter be acquired by the exercise of the right of eminent domain or if said line or any part thereof is laid upon, over, or under any public road or highway of this State, or street or alley of any municipality or the right of way of any railroad or other public utility including any other utility authorized by law to exercise the right of eminent domain.

(3) Producing or purchasing electric current and transmitting, delivering or causing the same to be transported or delivered by wires, conduit line, or other appurtenances to, into or near the limits of any city is received and distributed or municipality in which said electricity is received and distributed or sold to the public by the public utility, another public utility or by said municipality.

3. Conveying, carrying, or transmitting messages, conversations or communications by telephone or using or managing or controlling other appurtenances for conveying wires, wire lines or conduit lines or telegraph where such service is offered to the public for compensation.

(1) Owning, leasing, operating, or transmitting messages, conversations or communications by telephone or telegraph, whether for public hire or not, if any part of the right of way for said lines has been acquired or may hereafter be acquired by the exercise of the right of eminent domain or otherwise or if said lines or any part thereof are laid upon, over or under any public road or highway of this State, or street or alley of any municipality, or the right of way of any railroad or other public utility, including also any utility authorized by law to exercise the right of eminent domain.

(2) Owning, leasing, operating, managing, controlling, or using wires, wire lines or conduit lines for the purpose of carrying, conveying or transmitting by telephone or telegraph messages, conversations or communications in, into or near the limits of any municipality in which said messages, conversations,

or communication are received and transmitted or conveyed to the public by the public utility or by another public utility or by said municipality.

(d) The above definitions are cumulative only and not exclusive, and any person, except a municipal corporation, engaged in any phase of the gas, electric power, electric light, telephone or telegraph business, or anyone or more of such businesses, in such a manner as to be affected with a public interest, is declared to be a public utility and subject to all the provisions of this Act.

(e) The term "public utility" shall, for rate making purposes only, include any person as hereinbefore defined producing, generating or furnishing any of the foregoing services to another person for distribution to or for the public for compensation.

(f) The term "public utility" shall not include a municipality or any person not otherwise a public utility, who furnishes the services or commodity only to himself, his employes or tenants when such service or commodity is not resold to or used by others.

(g) The term "rate," when used in this Act, means and includes every compensation, charge, fare, toll, rental and classification or any of them demanded, observed, charged or collected by any public utility for any service, product or commodity offered by it to the public or other public utility, and any rules, regulations, practices or contracts affecting any such compensation, charge, fare, toll, rental or classification.

(h) The word "Commission," when used in this Act refers to the Public Utilities Commission of this State unless otherwise indicated.

Article II.

Section 1. A Commission to be "Public Utilities Commission of Texas" is hereby created. It shall consist of three members who shall be appointed by the Governor from the State at large with the approval of the Senate and who shall have the jurisdiction, powers and duties hereinafter set forth. Immediately after this Act takes effect the Governor shall, with the approval of the Senate, appoint one member of the Commission whose

term of office shall expire two years after appointment, one member whose term shall expire four years after appointment, and one member whose term shall expire six years after appointment. At the expiration of each of the above named terms there shall be appointed in the same manner one member of the Commission to hold office for the term of six years. Each Commissioner shall hold office until his successor is appointed and qualified. The Governor shall appoint one member chairman of the Commission.

Sec. 2. Before entering upon the duties of this office each commissioner shall take and subscribe to the constitutional oath of office and shall in addition thereto swear he is not pecuniarily interested directly or indirectly in any public utility as herein defined as employe, stockholder, security holder or bondholder and if any such commissioner thereafter becomes thus pecuniarily interested in any public utility he shall be subject to removal by the Governor and no commissioner shall be eligible to hold any other public office for two years after he has ceased to be a member of such Commission.

Sec. 3. Whenever a vacancy in the office of commissioner occurs, it shall be filled in the manner provided in Section 1 hereof with respect to original appointments and any person appointed to fill a vacancy shall hold office during the unexpired portion of the term.

Sec. 4. The Commission shall appoint a secretary who shall hold office during its pleasure. It shall be the duty of the secretary to keep a full and true record of all proceedings of the Commission and to perform such other duties as the Commission may prescribe.

Sec. 5. For the performance of the Commission's duties relative to public utilities, it may appoint, employ or remove such engineers, accountants, statisticians, assistants, inspectors, clerks, examiners, experts and such subordinates as are required therefor, and may appoint on such terms as it may deem advisable counsel and attorneys who are specially skilled in rate matters and such counsel and attorneys shall advise the Commission and repre-

sent it in all litigation and court proceedings under the direction of the Attorney General of Texas. The accountants employed by such Commission shall be skilled in the methods of utility accounting and under the direction of the Commission shall supervise the methods by which the accounts of the public utilities are kept in this State. The examiners employed by the Commission may administer oaths, examine witnesses and take evidence under such rules and regulations as the Commission may adopt.

Sec. 6. The annual salary of each Commissioner shall be \$10,000.00. Examiners, attorneys, experts, engineers, statisticians, accountants, inspectors, clerks and other employes of the Commission shall receive such compensation as may be fixed by law, otherwise such compensation shall be fixed by the Commission.

Sec. 7. The salary or compensation of the commissioners and every person employed by the Commission together with all expenses incurred by the Commission, pursuant to the provisions of this Act, including the actual and necessary traveling and other expenses of the commissioners and those employed by the Commission, incurred while in the business of the Commission shall be paid from the funds appropriated for the use of the Commission and other available revenues, such payments to be made as the salaries, compensation and expenses of other State officers and employes are paid.

Sec. 8. The principal office of the Commission shall be in the City of Austin and shall be open daily during usual business hours, Sundays and holidays excepted. The Commission shall hold meetings at its principal office and at such other convenient places in the State as may be expedient or necessary for the proper performance of its duties.

Sec. 9. The Commission shall have a seal bearing the following inscription: "Public Utilities Commission of Texas." The seal shall be affixed to all authentications of copies of records and to such other instruments as the Commission shall direct. All courts of this State shall take judicial notice of said seal.

Sec. 10. A majority of the commissioners shall constitute a quorum for the transaction of any business,

for the performance of any duty or for the exercise of any power of the Commission. No vacancy in the Commission shall impair the right of the remaining commissioners to exercise all the powers of the Commission. The act of a majority of the commissioners shall be the act of the Commission; but any investigation, inquiry or hearing which the Commission has power to undertake or hold, may be undertaken or held by or before any commissioner or commissioners, or examiner designated for the purpose by the Commission. The evidence in any investigation, inquiry or hearing may be taken by the commissioner or commissioners or examiner to whom such investigation, inquiry or hearing has been assigned. Every finding, opinion and order made by the commissioner or commissioners, so assigned, pursuant to such investigation, inquiry or hearing, when approved or confirmed by the Commission shall be the finding, opinion and order of the Commission.

Sec. 11. All decisions and orders of the Commission shall be public records. The Commission shall make and submit to the Governor, on or before the first day of January of each year, a report containing a full and complete account of its transactions and proceedings for the preceding fiscal year, together with such other facts, suggestions and recommendations as it may deem of value to the people of the State.

Article III.

Section 1. Under such rules and regulations as the Commission may prescribe, every public utility, as herein defined, shall file with the Commission within such time and in such form as the Commission may designate, schedules showing the rates being charged by such utilities. The utility shall keep copies of such schedules open for public inspection under such rules and regulations as the Commission may prescribe.

Sec. 2. No public utility shall directly or indirectly, by any device whatsoever or in anywise charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by such public utility than that prescribed in the schedules

of such public utility, applicable thereto, when filed in the manner provided in this Act nor shall any person receive or accept any service from a public utility for a compensation greater or less than that prescribed in such schedules.

Sec. 3. No public utility shall, as to rates or services, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable differences as to rates between localities or as between classes of service. The Commission may determine any question of fact arising under this section.

Sec. 4. Every utility described in this Act is hereby declared to be engaged in a business that is affected with a public interest and is subject to the jurisdiction, control and regulation of the Public Utilities Commission in accordance with the provisions of this Act.

Sec. 5. The original jurisdiction of the Commission shall extend to and include all public utilities subject to the provisions of this Act, owning, managing, operating, leasing, using or controlling any wires, lines, pole lines, conduit lines, transmission lines, wells, pipe lines, plants, property, equipment or facilities of any kind or character used for the purpose of conducting the business of such utility within this State and not within the regulatory jurisdiction of any incorporated city or town in said State.

Sec. 6. The appellate jurisdiction of the Commission shall extend to and include all public utilities subject to the provisions of this Act, owning, managing, operating, leasing, using or controlling pole lines, transmission lines, wells, pipe lines, plants, property, equipment and facilities of every kind and character in all cases where original jurisdiction is not given it herein.

Sec. 7. The Commission, after due notice to the municipality or municipalities, and to the utility affected, and after due hearing shall fix and establish and enforce the adequate and reasonable price of the commodities furnished by public utilities and fair and reasonable rates of charges and regulations for transmitting, carrying, conveying,

producing, transporting, distributing, buying, selling and delivering such commodities by such utilities in this State; and shall establish fair and equitable rules and regulations for the full control and supervision of all wire lines, pole lines, transmission lines, wells, pipe lines, plants, property, equipment and facilities of every kind and character situated outside of the corporate limits of incorporated towns and cities in the State of Texas together with all the holdings pertaining to the business conducted by such utility in all of its relations to the public as the Commission may from time to time deem proper; and the said Commission is hereby directed and it becomes its duty, as soon as possible after it begins to function, to establish a fair and equitable division of the proceeds of the sale of the commodities sold by the various utilities herein described between the companies transmitting, conveying, transporting, or producing such commodities or communications and the companies distributing or selling such commodities directly to patrons or to other persons or companies to be distributed to individual consumers; and it becomes the duty of the Commission immediately after it is organized to prescribe and enforce rules and regulations for the government and control of such transmission lines, pipe lines and other property used by the various utilities herein described in producing, receiving, transmitting and distributing their various commodities and to regulate and apportion the supply of such commodities between towns, cities and corporations and when the supply of such commodities and particularly in those instances when such commodities are used by domestic consumers and it shall appear that the supply of such commodities is inadequate, the Commission shall prescribe fair and reasonable rules and regulations requiring such utilities to augment their supply of their commodities and products when in the judgment of the Commission it would be practicable for them to do so; and the Commission shall exercise its power whether upon its own motion or upon petition by any person, corporation, municipal corporation, county or commissioners precinct showing a sub-

stantial interest in this subject, or upon petition of the Attorney General or of any city, county or district attorney in any county wherein such business or any part thereof may be carried on.

Sec. 8. When the governing body of any incorporated city has ordered any existing rate reduced the utility affected by such order may appeal to the Commission by filing with it on such terms and conditions as the Commission may direct, a petition and bond to review the decision, regulation, ordinance or order of the city, town or municipality. Upon such appeal being taken the Commission shall set a hearing and make such order or decision in regard to the matter involved therein as it may deem just and reasonable. The Commission shall hear such appeal de novo and shall have power to substitute an entirely new rate, change or alter the existing rate, prepare an entirely new rate structure and make such other and further orders as may be consistent with establishing fair and reasonable rates to be charged the patrons in such municipality for the commodity furnished and services rendered by the utility. The Commission may immediately after it has acquired jurisdiction of the appeal suspend the existing rate and establish a temporary rate structure if the circumstances and facts in the case should warrant such action by the Commission. Whenever any utility, whose rates have been fixed by any municipal government, desires a change of any of its rates, rentals or charges it shall make its application to the municipal government where such utility is located and such municipal government shall determine said application within a reasonable time and not to exceed one hundred and twenty days after presentation unless the determination thereof may be longer deferred by agreement. If the municipal government should reject such application or fail to refuse to act on it within said time then the utility may appeal to the Commission as hereinabove provided. The said Commission shall determine the matters involved in any such appeal as soon as it would be practicable to do so after the filing by such utility of such appeal with said Commis-

sion, and the rates fixed by the municipal government shall remain in full force and effect until ordered changed or altered as hereinabove provided. In all rate hearings the burden of proof shall be upon the utility.

Sec. 9. If any utility, municipality or other party interested be dissatisfied with the decision of any rate, classification, rule, charge, order, act or regulation adopted by the Commission such dissatisfied utility or party may file a petition in the district court of the county in which any city is located that has been affected by an order of the Commission concerning rates charged by a utility in such city. Such appeal must be perfected within sixty days from the date of the order of the Commission. If the order made by the Commission should affect the rates charged in more than one city the venue of such action would lie in the district court of the county in which any of the cities should be located. Said action shall have precedence on the docket over all other causes of a different nature, and said case shall be tried in the same manner as all other civil cases. Either party to said action may have the right of appeal; and said appeal shall be at once returnable to the appellate court and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. If the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days' notice.

Sec. 10. Every utility, as defined herein shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in said office all books, accounts, papers, records, vouchers, and receipts which the Commission shall require. No books, accounts, papers, records, receipts, vouchers or other data required by the Commission to be so kept shall be at any time removed from this State except upon such conditions as the Commission may prescribe.

Sec. 11. All orders and agreements of any company or corporation or any person or persons controlling utilities as herein defined, establishing and prescribing prices, rates,

rules and regulations and conditions of service shall be subject to review, revision and regulation by the Commission on hearing after notice as provided for herein to the person, firm, corporation, partnership or jointstock association owning or controlling or operating the utility affected.

Sec. 12. No public utility shall discriminate in favor of or against any person, place or corporation either in apportioning the supply of its commodities or its charges therefor. And no public utility described in this Act shall be permitted to conduct its business in this State if it should fail or refuse to subject itself to the jurisdiction of the Commission as provided in this Act.

Article IV.

Section 1. The Commission may, after hearing upon reasonable notice had upon its own motion or complaint, ascertain and fix just and reasonable standards, classifications, regulations, practices or service to be furnished, imposed, observed and followed by any or all public utilities; ascertain and fix adequate and reasonable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product, commodity or service furnished or rendered by any and all public utilities; prescribe reasonable regulations for the examination and testing of such product, commodity, or service and for the measurement thereof establish or approve reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurement; and provide for the examinations and testing of any and all appliances used for measurement of product, commodity, or service of any public utility.

Sec. 2. The Commission may, on hearing after reasonable notice, ascertain and fix the value of the whole or any part of the property, of any public utility insofar as the same is material to the exercise of the jurisdiction of the Commission and may make revaluations from time to time and ascertain the value of all new construction, extensions and additions to the property of every public utility.

Sec. 3. The Commission may es-

tablish a system of accounts to be kept by the public utilities, subject to its jurisdiction, or may classify said public utilities and establish a system of accounts for each class, and prescribe the manner in which such accounts shall be kept.

Sec. 4. The Commissioners and the officers and employees of the Commission may during all reasonable hours enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any power provided for in this Act, and may set up and use on such premises any apparatus and appliances necessary therefor. Such public utility shall have the right to be represented at the making of such examination, tests and inspections.

Sec. 5. The Commission may require any public utility to file annual reports in such form and of such content as the Commission may deem necessary and special reports concerning any matter about which the Commission is authorized to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath when required by the Commission.

Sec. 6. The Commission may, on its own motion and whenever it may be necessary in the performance of its duties, investigate and examine the condition and management of public utilities or any particular utility. In conducting such investigations the Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording the parties affected thereby a hearing.

Sec. 7. The Commission may, in addition to the hearings specially provided for by this Act, conduct such hearings as may be required in the administration of the powers and duties conferred upon it by this Act and by other acts relating to public utilities. Reasonable notice of all such hearings shall be given the person interested herein.

Sec. 8. All hearings, investigations, and proceedings shall be governed by this Act and by rules of practice and procedure to be adopted by the Commission.

Sec. 9. The Commission and each Commissioner may issue subpoenas, subpoenas duces tecum and all necessary processes in proceedings

pending before it, and such processes of courts of record.

Sec. 10. The Commission and each of the commissioners for the purpose mentioned in this Act, may administer oaths, examine witnesses and certify official acts, in case of failure on the part of any person or persons to comply with any lawful order of the Commission, or any commissioner, or with any subpoena or subpoena duces tecum or in the case of the refusal of any witness to testify concerning any matter on which he may be interrogated lawfully, any court of record of general jurisdiction or a judge thereof, may on application of the Commission or of any commissioner, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Sec. 11. The Commission or any commissioner or any party to the proceedings may, in any investigation or hearing before the Commission, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for taking depositions in civil actions.

Sec. 12. No person shall be excused from testifying or from producing any book, document, paper or account in any investigation, or inquiry by, or hearing before, the commission or any commissioner when ordered to do so, upon the ground that the testimony or evidence, book, document, paper or account, required of him may tend to incriminate him or subject him to penalty or forfeiture of penalty for or on account of any act, transaction, matter or thing concerning which he shall have been compelled under oath to testify or produce documentary evidence; provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

Sec. 13. Copies of official documents and orders filed or deposited according to law in the office of the Commission, certified by a commissioner or by the secretary under the official seal of the Commission to be true copies of the original shall be evidence in like manner as the original, in all matters and proceed-

ings where the originals would be evidence.

Sec. 14. Every order, finding, authorization or certificate issued or approved by the Commissioner under all provisions of this Act shall be in writing and entered on the records of the Commission. A certificate under the seal of the Commission that any such order, finding, authorization or certificate has not been modified, stayed, suspended or revoked, shall be received as evidence in any proceedings as to the facts therein stated.

Sec. 15. Witnesses who are summoned before the Commission shall be paid the same fees and mileage as are paid to witnesses in the courts of record of general jurisdiction. Witnesses whose depositions are taken pursuant to the provisions of this Act, and the officer taking the same, shall be entitled to the same fees as are paid for like services in such courts.

Sec. 16. The Commission, any commissioner or any person employed by the Commission for that purpose, may at any and all times during reasonable hours inspect the accounts, books, papers and documents of any public utility, and have copies thereof. Any person other than a commissioner demanding such inspection, shall produce under the seal of the Commission, his authority to make such inspection.

Sec. 17. The Commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this State at such time and place as it may designate, of any books, accounts, papers or records of the public utility relating to its business or affairs within the State, pertinent to any lawful inquiry and kept by said public utility in any office or place without this State or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the Commission or under its direction.

Sec. 18. The Commission, on its own motion or any person having an interest in the subject matter, including any utility concerned, may complain in writing setting forth any act or thing done or omitted to be done by any public utility in violation or claimed violation of any

law which the Commission has jurisdiction to administer, or any order or rule of the Commission.

Sec. 19. Upon the filing of a complaint, the Commission shall cause a copy thereof to be served upon the person complained of. Service in all hearings, investigations and proceedings pending before the Commission may be made personally or by registered mail as the Commission may direct.

Article V.

Section 1. Should any person, firm, corporation, trustee or lessee owning, operating, or conducting a public utility violate any of the provisions of this Act or any rule or regulation of the Commission, the Commission shall, whenever in its judgment the public interests require it, make application to a court of competent jurisdiction for a receivership of any such concern guilty of such violation. Such a receivership shall control and manage the property of such utility under the direction of the court as provided by law in receivership matters. The grounds for appointment of a receiver provided for in this Article shall be in addition to other grounds provided by law. No receiver as provided for herein shall be appointed until after five days' notice has been given to the utility affected of the filing of the petition for receivership.

Sec. 2. Any person or corporation which violates any provision of this Act which fails, omits or neglects to obey, observe or comply with any lawful order or any part of provision thereof the Commission is subject to a penalty of not less than One Hundred (\$100.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars for each offense.

Sec. 3. On construing and enforcing the provisions of this Act relating to penalties, the act, omission or failure of any official, agent or employee of any corporation or person acting within the scope of his official duties or employment shall in every case be deemed to be also the act, omission or failure of such corporation or person.

Sec. 4. Every violation of the provisions of this Act or of any lawful order of the Commissioner or any part or portion thereof by any corporation or person is a separate

and distinct offense and in case of a continuing violation after a first conviction each day's continuance thereof shall be deemed to be a separate and distinct offense.

Sec. 5. All penalties accruing under this Act shall be cumulative and a suit for the recovery of one penalty shall not be a bar to or effect the recovery of any other penalties or forfeiture or be a bar to any criminal prosecution against any public utility or any official, director, agent or employee thereof, or any other corporation or person.

Sec. 6. Actions to recover penalties under this Act shall be brought in the name of the State of Texas in any court of competent jurisdiction.

Article VI.

Section 1. That the rates and service of any public service plant, property, equipment or facilities owned or operated by a municipality or that shall hereafter be owned or operated by municipalities, shall not be subject to the jurisdiction, regulation or control of the Commission, and provided further, this Act shall never be construed as taking anything from the municipalities of this State, their authority, jurisdiction or power under any statute or charter, to fix, and regulate the rates, fares and charges as provided by said statute or charter; except as otherwise provided herein nor shall any provision of this Act be construed so as to affect existing franchises heretofore granted, nor to prevent or affect the power or right of any city to grant franchises to public utilities.

Sec. 2. Every public utility as defined in this Act whether its property be wholly situated within the boundaries of an incorporated city or otherwise shall on or before the first day of January and quarterly thereafter file with the Commission a statement duly verified under oath as true and correct by the president, treasurer, general manager, or other duly authorized officer of such utility showing the gross receipts of such utility for the quarter next preceding or for such portion of said quarterly period as such utility may have been conducting any business and at the time such statement is filed shall pay into the State Treasury at Austin a sum equal to one-fourth of one per cent of the gross

income received from all business done by it within this State during said quarter, and such funds shall be used to meet the expenses of the Commission as hereinbefore provided.

Article VII.

Section 1. Any patron of any utility herein defined, subject to the regulatory jurisdiction of any incorporated city or town, may apply to the governing body thereof for a reduction in rates, which shall be acted on by said governing body within twenty days, and if refused, he shall have the right of appeal to the Commission under such rules and regulations as the Commission may prescribe, provided that such application, as to present existing rates, shall be made within six months after this act shall go into effect, and as to rates thereafter fixed, within three months thereafter, and provided further that should said governing body fail or refuse to so act within twenty days as above set forth, then the same shall be deemed to have been refused.

Sec. 2. Any incorporated city or town having regulatory jurisdiction may invoke the assistance and facilities of the Commission in determining and fixing rates whenever deemed necessary or proper.

Sec. 3. No corporation, except one chartered under the laws of Texas, shall be authorized or permitted to construct, build, operate, acquire, own or maintain any public utility within this State.

Sec. 4. Every public utility operating in this State shall keep and maintain permanently its general offices in this State.

Sec. 5. All books, records and other documents in any way relating to the business or property of every utility operating in this State shall be kept at the general offices of such utility in Texas and they shall be kept open for inspection and examination to the agent of any duly constituted regulatory body in this State.

Article VIII.

Should any section, article, provision or part of this Act be declared to be unconstitutional and void by a court of competent jurisdiction such

decision shall in no way affect the validity of any of the remaining parts of this Act unless the part held void is indispensable to the operation of the remaining parts. The Legislature hereby declares that it would have passed those parts of this Act which are valid and omitted any parts which may be unconstitutional if it had known that such parts were unconstitutional at the time of the passage of this Act.

Article IX.

This Act shall be so interpreted and construed as to effectuate its general purpose. All existing statutes covering the matters embraced in this Act are hereby repealed and all acts and parts of acts now in effect which are inconsistent with the provisions of this Act are hereby repealed, but no law now or hereafter enacted, requiring other reports of such utilities to be filed with other State, County or municipal officers or bodies, shall be repealed, or affected thereby, and provided further that the Statutes of this State relating to railroads and the regulation thereof are not repealed or modified in any way except as hereinbefore expressly set out.

Article X.

The public importance of the purpose herein contemplated creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read upon three several days in each House and the said rule is hereby suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

FIFTEENTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, May 16, 1929.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.
Berkeley.

Cousins.
Cunningham.